

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEVEN ROLAN, #201901143,	§	
	§	
Petitioner,	§	
	§	
V.	§	No. 3:22-CV-1691-K-BK
	§	
DALE S. HANNA, ET AL.,	§	
	§	
Respondents.	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE
JUDGE AND ORDER DENYING CERTIFICATE OF APPEALABILITY**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Objections were filed. As Petitioner concedes, he did not file an Art. 11.08. He filed instead an Article 11.40 application. Doc. 9 at 3. Petitioner thus failed to exhaust his state court remedies.

The court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. Petitioner's Objections are OVERRULED.

Pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing § 2254 proceedings, and 28 U.S.C. § 2253(c), the court DENIES a certificate of appealability. See *Stringer v. Williams*, 161 F.3d 259, 262 (5th Cir.

1998) (requiring state pretrial detainee challenging pending criminal charges to obtain a certificate of appealability following district court's denial of petition under 28 U.S.C. § 2241). In light of the ruling in this case, the court concludes that petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Rule 11 of the Rules Governing §§ 2254 and 2255 Cases, reads as follows:

(a) Certificate of Appealability. The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue. If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. ' 2253(c)(2). If the court denies a certificate, the parties may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. A motion to reconsider a denial does not extend the time to appeal.

(b) Time to Appeal. Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order entered under these rules. A timely notice of appeal must be filed even if the district court issues a certificate of appealability.

If petitioner files a notice of appeal, petitioner may proceed in forma pauperis on appeal.

SO ORDERED.

Signed September 9th, 2022.

A handwritten signature in black ink, reading "Ed Kinkeade", written over a horizontal line.

ED KINKEADE
UNITED STATES DISTRICT JUDGE